

**THE FARRELL LAW GROUP, P.C.**  
**IMMIGRATION REPORT-FEBRUARY 2009**

Dear Immigration Client:

When foreign-born people marry a US Citizens, or marry a Lawful Permanent Resident in the U.S.(LPRs), their spouse may apply for immigration benefits for them. For those who have entered the United States without inspection (EWI), the process can be complicated. People who have been deported, have been arrested, and those who have stayed in the U.S. for longer than one year, or left the U.S. and then came back will, need to discuss their issues with an attorney to determine whether they are eligible to receive any immigration benefits under the current regulations.

If the foreign-born person has **only an EWI** that needs to be dealt with, there is a method for applying for immigration benefits. Because of the EWI, those foreign-born people married to a U.S. Citizen, or to a LPR, are considered "inadmissible" and are **not eligible** to receive their green card here in the U.S. The foreign-born spouse must apply at the **US Consulate in their home country**. At the Consulate, they must ask for a **waiver of their inadmissibility**.

Procedurally, the U.S. Citizen, or LPR, spouse would **file an I-130 petition with USCIS**. The I-130 application would be processed in approximately **six to seven months for U.S. Citizens**, and in approximately **2-3 years for LPRs**. If approved, the application is sent to the National Visa Center (NVC). The NVC then begins to process the case by requesting **financial information** about the Petitioner [U.S. Citizen, or LPR], and **biographical information** about the foreign-born spouse. Once all the necessary fees, documents, and applications are received by the NVC, it sends the **package to the Consulate in the foreign-born spouse's country**. **The foreign-born spouse will then be called in for an interview at the Consulate in his or her home country**.

Usually a foreign-born spouse will have been **in the U.S. unlawfully for over 1 year.**, and he or she will have triggered a **10-year bar for immigration benefits** once he or she leaves to attend the interview. How is this dealt with? If the **home country is Mexico**, the person will have **two appointments**. First, they will have an appointment to **establish the validity of the relationship and eligibility for the green card**. Then, they will have an appointment to **submit the I-601 Waiver to waive the 10-year bar** they triggered when they left the U.S. If the home country is **any other country**, the person will submit their **I-601 waiver at the initial interview**.

*The I-601 Waiver of the 10 year bar is the most important part of this process.* To be eligible to file an I-601 waiver, you must: 1. Be the **spouse or son or daughter of a U.S. Citizen or LPR**; and 2. must **pay the I-601 fee of \$545**. You must demonstrate **extreme hardship to that US Citizen or LPR relative** if you are not allowed to return to the United States. Because this waiver is necessary in order to return, it should be **documented with as much evidence, organization, and care as possible**.

*If you wish to attempt a consular process with waiver, contact us at the Farrell Law Group to get more information on the process, and our assessment of your likelihood of success.*

Most Sincerely,

N. Peryn Harmon, Esq.      Jessica Lopez, Legal Assistant      Augusto Pasco, Legal Assistant

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